

REMARKS

The Office Action mailed May 27, 2005 has been carefully reviewed and the amendments and arguments made herein have been made in a genuine effort to bring the claims into condition for allowance. Reconsideration of the claim rejections and allowance of all of the presently pending claims are, therefore, respectfully requested.

The Claims

Claims 1-25 are pending.

Claim 1 has been amended to recite, *inter alia*, a method of making a decorative arrangement including the steps of providing a wet foam, partially curing the wet foam to create a nodule, shaping the nodule, securing a plurality of decorative elements to the nodule, and subsequently drying the nodule to convert it to *decorative* rigid foam, and prior to converting the wet foam to *decorative* rigid foam, supporting the wet foam on preformed rigid foam.

Claims 2 and 3 have been rewritten in the manner suggested by the Examiner, in order to overcome the rejections under 35 U.S.C. § 112, 2nd Paragraph.

Claim 15 has been rewritten as suggested by the Examiner, thereby obviating the Examiner's objection with respect thereto.

New Claims 26 and 27 have been written in the manner indicated as being allowable by the Examiner, namely to include all of the limitations of Claims 5 and 11, respectively, and all intervening claims.

New Claims 28 and 29 rewrite Claims 12 and 18, respectively, in the manner indicated as being allowable by the Examiner.

The Invention

The present invention has provided a unique method for making a decorative arrangement by providing a wet foam, partially curing the wet foam to create a nodule as defined at Page 5, Line 22 of the Specification, which is formed into a desired shape, followed by securing a plurality of decorative elements as defined at Page 5, Line 29, of the Specification to the nodule and, prior to the wet foam (as defined on Page 6, Line 5 of the Specification) becoming rigid foam, supporting the wet foam on preformed rigid foam. A support container (as defined in the Specification at Paragraph [0070]) can be placed in supporting underlying relationship with respect to the preformed rigid foam.

ALLOWABLE SUBJECT MATTER

The Examiner has indicated that Claims 2, 5, 11, 12, 15 and 18 would be allowable if rewritten to overcome the objections set forth in the Office Action mailed May 27, 2005.

Accordingly, Claim 2 has been rewritten, as suggested by the Examiner, in order to overcome the Examiner's rejection under 35 U.S.C. § 112, 2nd paragraph, and Claim 15 has been rewritten in the allowable manner suggested by the Examiner. Allowance of Claims 2 and 15, as amended, is requested.

Additionally, new Claims 26, 27, 28, and 29 respectively contain all of the limitations of Claims 5, 11, 12, and 18, and the base claims and any intervening claims from which they depend, respectively, and Claim 15 has been rewritten in the allowable manner suggested by the Examiner. Early allowance of Claims 26, 27, 28 and 29 is, therefore, also requested.

Claim Objections

Claim 15 has been amended to insert the word —wet—before “foam” thereby obviating the Examiner's objection to the claim. It is, therefore, submitted that Claim 15 is now allowable.

Claims 3, 6 and 17: Rejected Under 35 U.S.C. 112, Second Paragraph

Claims 3, 6 and 17 have been amended, as suggested by the Examiner, in order to overcome the Examiner's rejections with respect thereto. Specifically, Claim 3 has been amended to include the step of “introducing portions of said decorative elements in the preformed rigid foam,” and Claims 6 and 17 have been amended to address the antecedent issues noted with respect thereto.

Claims 1, 2, 4, 6-10, 12-14, 16, 17 and 19-25: Rejected Under 35 U.S.C. 103(a)

Claims 1, 2, 4, 6-10, 12-14, 16, 17 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson (FR 2454752) in view of Applicant's Admitted Prior Art (AAPA).

With regard to Claims 1, 14, 17 and 20-22, the Examiner states that Laurenson “discloses a method of making a decorative arrangement comprising providing a thick layer of any known hardenable malleable material (page 2, line 8-10) supported on a rigid board of wood or plastic and securing a plurality of decorative elements to the material before it dries out and hardens.” The Examiner has acknowledged that Laurenson does not disclose the hardenable material being wet foam, but this inadequacy is said to be made up for by admitted prior art at pages 1-3, and 8 of Applicant's specification. Applicant respectfully disagrees with this analysis.

Laurenson, at best, teaches the requirement of a separate reinforcement in the form of a plurality of nails (Figures 1, 2 and 3), a plastic wrap (Figures 3 and 6), a grating structure (Figures 4-6 and 10), or a box (Figures 7-10) in order to support the “malleable setting material” which, as stated at page 1, line 38 through page 2, line 1, is contemplated as being clay, reduced cement or a special plastic material (see Appendix A, an English translation of the Laurenson reference, generated using the internet translator at the website <http://babelfish.altavista.com> and marked-up by Applicant’s attorney to provide line, paragraph and page references for the convenience of the Examiner). As such, Laurenson does not teach or suggest, but in fact teaches away from, the ***combination of wet foam and preformed rigid foam*** of the invention. As such, even if the clay, cement or plastic of Laurenson was to be replaced with a foam material, as suggested by the Examiner, the combination would fail to teach or suggest Applicant’s invention.

More specifically, as shown in Laurenson Figures 1, 2, and 3, which depict a first embodiment, a plurality of nails 2 “in a number sufficient to constitute a reinforcement” for the malleable material 3, is required (Figures 1 and 2; page 2, lines 4-6). Additionally, a protective band or film 5 of flexible plastic must be rolled around the material to support it (Figure 3; page 2, lines 15-17). Applicant’s invention has no such requirement. Conversely, as recited in amended Claim 1 and supported in Applicants’ disclosure (see, for example, Figures 16-20), in the method of the invention, the wet foam is at least partially cured to create a nodule 206, which is shaped and which is generally self-supporting. In other words, although the nodule 206 may partially overlie preformed rigid foam 202, no nails or other separate supporting elements (e.g., the plastic wrap 5, grid or matrix 4, or box 7 of Laurenson Figures 1-10) are required to maintain the shape of the nodule 206. For instance, as shown in the plan views of Figures 18 and 19, the nodule 206 in accordance with the invention may at least partially intentionally overlie the preformed rigid foam 202 and, as disclosed at paragraph 70 of Applicant’s Specification and Figures 16-19, the decorative elements 248, 250, 252 are anchored in and supported by the wet foam.

Further to the foregoing, the invention also distinguishes over the Laurenson reference and the prior art discussed in Applicant’s disclosure in that “[o]ne of the features of the present invention is to provide nodules which are sufficiently attractive as to be positioned within the decorative arrangement ***in a highly visible location***” (emphasis added)(paragraph 61 of Applicant’s specification; Figures 16-20). For example, as disclosed at paragraph 71 and Figure 20, “decorative segments of wet foam 290,292” overlie the rigid foam 282 and are readily visible. Laurenson on the other hand, like numerous other prior systems, clearly

employs the malleable material solely for purposes of retention of decorative elements and is intended to be essentially completely hidden from view by either a plastic wrap 5 (see, for example, Figures 1-3, and 6), a plastic grating structure or matrix 6 (Figures 4-6, and 10), containers (Figures 7-10), or a combination thereof.

Independent Claim 1 has been amended to further expressly recite the distinguishing decorative aspect of the foam of the invention. Specifically, Claim 1 has been amended to recite, *inter alia*, the nodule being made to be *decorative*.

Accordingly, the use of a malleable material which must be supported by one or more separate structures and which is intended to be essentially hidden from view, as taught by Laurensen does not teach or suggest, but in fact teaches away from the recited *decorative* foam nodule of amended Claim 1. Laurensen, therefore, adds nothing to the disclosed prior art to render the claimed invention obvious.

It is submitted, therefore, that Claim 1, as amended, is patentable over the cited prior art.

Claims 14, 17 and 20-22 depend from amended independent Claim 1 and through such dependency, are also patentable over the references. Claims 20-22 are not separately asserted to be patentable apart from their dependency on Claim 1. Claims 14 and 17 are further patentable over the references for the following reasons.

With respect to Claim 14, surface mounting of a decorative element as defined in Applicant's specification is not taught or suggested in the prior art references, which clearly contemplate stems of flowers penetrating the malleable material.

With regard to Claim 17, as previously discussed, the prior art references do not teach or suggest the combination of wet foam and preformed rigid foam, or such wet foam being partially supported on the preformed rigid foam. Conversely, the references clearly contemplate use of only one type of malleable setting material which must be supported by a plurality of nails, a plastic wrapping material, a grating structure or matrix, or within a box.

With respect to Claims 2, 4, 7 and 10, the Examiner states that "it is within the general knowledge of one of ordinary skill in the art to provide proper support for the decorative arrangement." Applicant traverses this overly broad, blanket statement. Regarding Claim 2, it is submitted that the references which, at best, clearly contemplate placing a foam or other malleable within a container, do not teach or suggest, but in fact teach away from the container underlying the rigid foam such that, for example as shown in Figure 16, 17 and 20, the rigid foam is on top of the container, not within it. Claim 4 has been amended to depend from Claim 2, and is not separately asserted to be patentable apart from such dependency. As

previously discussed, the references do not teach or suggest the combination of wet foam on preformed rigid foam, as recited in Claim 7 and, regarding Claim 10, since the references, alone or in combination, do not teach or suggest the combination of wet foam and preformed rigid foam, they certainly do not teach or suggest the further recital of the wet foam on the rigid foam without any underlying supporting container.

Regarding Claim 13, there is no teaching or suggestion in Laurenson or in the disclosed prior art, whether considered individually or in combination, to make the decorative arrangement by sequentially applying portions of at least some of the decorative elements to the nodule prior to complete drying of the nodule to convert it to rigid foam.

Claims 16 and 19 depend directly or indirectly from amended independent Claim 1 and through such dependency, are also patentable over the references. Claims 16 and 19 are not separately asserted to be patentable apart from such dependency.

With respect to Claim 23, there is no teaching or suggestion in Laurenson or in the disclosed prior art, whether considered individually or in combination, of the recited drying temperature and time period recited.

Regarding Claim 24, the references do not teach or suggest the subsequent application of additional wet foam. Conversely, the references teach away from subsequent application of additional wet foam by requiring the “malleable material” to be wrapped or otherwise covered as taught by Laurenson.

With regard to Claim 25, the Examiner directs Applicant’s attention to Laurenson Figure 6. Laurenson Figure 6, however, clearly shows the nodule of foam or other “malleable material” being covered by plastic wrap 5 and, therefore, expressly teaches away from the nodule being *decorative* so as to be disposed in a readily visible position.

Claim 6: Rejected Under 35 U.S.C. 103(a)

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to Claim 2 above, and further in view of Hillenbrand (U.S. Patent 4,044,502).

Laurenson and the AAPA have been previously discussed. Hillenbrand, which discloses a container having a socket and strap assembly for holding a block of flower holding material in the container (Abstract; Figure 3; Column 2, lines 24-26), adds nothing to Laurenson/AAPA to render the instant invention obvious. In fact, Hillenbrand, like Laurenson, teaches away from the present invention as recited in Claim 2 from which Claim 6 depends, by requiring the “block of flower holding material” to be disposed within the container, rather than the container being disposed in *underlying relationship* with the block,

as recited in Claim 2 from which Claim 6 depends (see also Figures 16-19). Accordingly, Claim 6, like Claim 2, is also patentable over the references..

Claims 8 and 9: Rejected Under 35 U.S.C. 103(a)

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to claim 7 above, and further in view of Harris (U.S. Patent 4,941,572).

Claims 8 and 9 depend, directly or indirectly from amended independent Claim 1 and through such dependency, are also patentable. Claim 8 is not separately asserted to be patentable apart from such dependency.

With regard to Claim 9, none of the references, considered individually or in combination, teach or suggest providing the arrangement with the appearance of an ice cream sundae. In fact, the references are expressly limited to flower arrangements, thereby teaching away from the ice cream sundae recited in Claim 9.

Reconsideration and allowance of Claims 1-25 is requested.

MISCELLANEOUS

The prior art made of record, but not relied on, has been reviewed, but is not believed to be more relevant than the applied art.

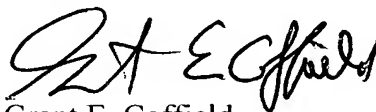
SUMMARY AND CONCLUSIONS

It is respectfully submitted for the foregoing reasons that amended independent Claim 1 and all of the dependent claims, Claims 2-25, which depend directly or indirectly from Claim 1, are patentably distinct from the applied art, whether considered individually or in combination.

It is also submitted that Claims 2 and 15 have been amended and new Claims 26, 27, 28, and 29 have been written to respectively contain the limitations of Claims 5, 11, 12, and 18 and the base claim and any intervening claims, respectively, in the manner indicated as being allowable by the Examiner.

Accordingly, it is submitted that the application is now in proper form for issuance of a Notice of Allowance. Such action is respectfully requested at an early date.

Respectfully submitted,



Grant E. Coffield
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Registration No. 52,758
Attorney for Applicant

Telephone number:
412.566.6965